

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3687 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

NATIONAL INSURANCE CO. LTD.

Versus

SHASHIKALABEN MAHENDRABHAI THAKER

Appearance:

DAKSHESH MEHTA for Appellant
MR MTM HAKIM for Respondent nos.1 to 5
DELETED for Respondents No. 6-7

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE H.H.MEHTA

Date of decision: 01/11/2001

1. Heard the learned counsel for the appellant and learned counsel Mr. M.T.M. Hakim for respondent nos.1 to 5 (original claimants). Appeal admitted. Mr. MTM Hakim waives service of notice in the appeal on behalf of respondent nos.1 to 5 (original claimants).

2. This is an appeal under section 173 of the Motor Vehicles Act, 1988, by the Insurance Company challenging the judgement and award passed by the Motor Accident Claims Tribunal (Main) at Vadodara in Motor accident Claim Petition No.77/95. The short point raised in the present appeal is as regards the rate of interest, at the rate of 12% per annum awarded by the Tribunal from the date of filing of the petition till the date of realisation.

3. In consonance with a large number of decisions delivered by this Court and in particular by this Bench, we are of the opinion that the rate of interest as awarded by the Tribunal requires to be modified.

4. Accordingly we hold and direct that the original claimants shall be entitled to compensation as determined by the Tribunal in the impugned award, but shall be entitled to interest at the rate of 12% per annum from the date of the claim petition upto 31st December 1999, and at the rate of 9% thereafter until realisation. It is clarified that the impugned award is modified only to the aforesaid extent and the rest of the award stands confirmed.

5. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

6. At the instance of learned counsel for the respondents-original claimants we may note that the said respondents-claimants have preferred an appeal challenging the very same award, for the purpose of enhancement. It is clarified that in the said appeal the appellants may urge all available grounds for enhancement of the quantum, but shall be bound by the present order so far as the rate of interest is concerned.

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